

change in value is akin to a market value claim. See *Dedham Co-op Ass'n. v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider only the claim of over-assessment.

According to the property record card, the subject property is a one-story, vinyl-sided dwelling built in 1905 with 816 square feet of main living area. The property has a small shed-like garage built in 1938.

Wagner submitted photocopies that indicate the physical condition of the subject property sidewalk and a photocopy of the neighboring property at 2316 Capitol Avenue which, in his opinion, lowers the value of the subject property because of its poor condition. Wagner also submitted data from state and national news reports that indicated home values are going down. Wagner testified that he believes homes have decreased 10% in Iowa.

The Board of Review introduced evidence of an independent appraisal conducted by Michael W. Swaim. Swaim testified at hearing regarding the appraisal process. He reported that he reviewed seventeen 2008 sales and selected the best four for comparables. Swaim noted the property's functional depreciation created by the only basement access being located in the bath. In his opinion, the shed-like garage had no value. The comparables were adjusted for sales concessions, quality of construction, gross living area, functional utility, and garages. Swain's final reconciliation of value for the subject property was \$65,000 as of January 1, 2009, assessment date. The Board of Review's position is the property was inequitably assessed as evidenced by the appraisal and they denied the protest.

We find a preponderance of the evidence proves the January 1, 2009, assessment is inequitable. We find that the appraisal submitted by the Board of Review supports an assessment of \$65,000. Adjusted sales prices ranged from \$56,500 to \$69,700, while the Wagner property is assessed at \$71,400.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available of market value "cannot be readily established in that manner," "other factors" may be considered in arriving at market value. *Heritage Cablevision v. Board of Review of City of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990); Iowa Code § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 499 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell*


v. Shriver, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The appraisal submitted by the Board of Review demonstrates the subject property was inequitably assessed and that the fair market value is \$65,000 rather than \$71,400.

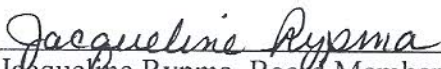
We modify the assessment of the Willodene Mae Wagner property determined by the Board of Review. The Appeal Board determines that the property assessment as of January 1, 2009, is \$65,000 representing \$14,200 in land value and \$50,800 in dwelling value.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order and to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review, is modified.

Dated this 19 day of May, 2010.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member

Copies to:

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 5-17, 2010

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature

[Handwritten Signature]

